



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Utah Precision, Inc.--Request for
Reconsideration
File: B-234380.2
Date: August 24, 1989

DIGEST

General Accounting Office will not review an agency's determination to perform services in-house rather than by contracting-out unless the agency has issued a solicitation for purposes of cost comparison under Office of Management and Budget Circular No. A-76.

DECISION

Utah Precision, Inc., requests reconsideration of our dismissal of its protest against award of contract No. DABT60-89-C-1453, to Research Analysis and Maintenance, Inc. (RAM), by the Army Training and Doctrine Command (TRADOC), to operate radar facilities at Fort Eustis, Virginia. RAM and Utah Precision submitted, respectively, the low and second-lowest bids in response to the solicitation. The Army awarded a contract to RAM in January 1989. RAM's contract was terminated for convenience^{1/} by the Army shortly thereafter and the Army decided to perform the function in-house. We deny the reconsideration.

In its original protest to our Office, Utah Precision challenged the Army's decision to award the contract to RAM, the low offeror. Utah Precision now asserts that since it has offered to undertake the contract at a lower price than it would cost the government to perform in-house, the Army has undermined the integrity of the competitive procurement process by canceling the solicitation rather than awarding a contract to Utah Precision. The protester alleges further that the Army should not be permitted to perform the function in-house until it has complied with Office of Management and Budget (OMB) Circular A-76 requirements regarding conversion from performance under contract by a

^{1/} The Army reports that the contract and underlying solicitation contained technical requirement errors.

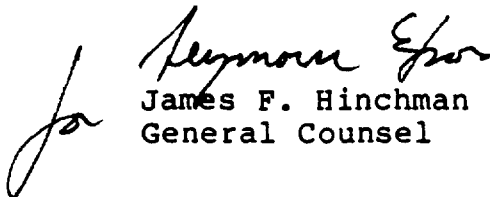
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commercial source to performance by government personnel. The protester argues that when commercial contract performance is judged unsatisfactory, as in this case, A-76 authorizes conversion to in-house only if: (1) recompetition with other satisfactory commercial sources does not result in reasonable prices and (2) a cost comparison indicates that in-house performance is more economical than performance under contract. Since Utah Precision's bid was below the government estimate, the protester contends that recompetition would yield a reasonable price and that contracting-out performance would be more economical than conversion to in-house performance.

Our Office will not review an agency's determination to perform services in-house rather than contract-out where, as here, no competitive solicitation has been issued for cost comparison purposes under OMB Circular A-76. See Etc. Technical & Professional Servs., Inc., B-227554, July 2, 1987, 87-2 CPD ¶ 12, where we refused to review a determination to perform services in-house, rather than continuing to have them performed under the contract. While Utah Precision argues that our Office should consider a protest that the agency in deciding to perform the services in-house is required to conduct a cost comparison in accordance with circular A-76, we have consistently declined to do so. Microphor, Inc.--Request for Reconsideration, B-233148.2, Feb. 1, 1989, 89-1 CPD ¶ 103.

Part 7.3 of the FAR provides the government's policy for conducting cost comparisons as set forth in OMB Circular A-76 and the Cost Comparison Handbook and the procedures for conducting a cost comparison once the decision to issue a solicitation for that purpose has been made. However, this does not provide any basis for our Office to question an agency determination not to issue a solicitation to conduct a cost comparison and our Office has consistently declined to review such a decision since it is a matter of executive policy. Etc. Technical & Professional Servs., Inc., B-227554, supra.

The request for reconsideration is denied.


James F. Hinchman
General Counsel